IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6591 OF 2007

Rajendra Dinkar Pawar & Ors. .. Petitioners

Versus

Pramod Madhavrao Medade & Ors. .. Respondents

Mr.J.Shekhar i/b. J.Shekhar & Co. for petitioners

CORAM : S.C.DHARMADHIKARI, J.

DATE : 12th December 2007

P.C.

. After hearing Mr.Shekhar and inviting his attention to section 139 of the Indian Evidence Act, he submits that all that the petitioner requested the trial court was to summon a person from the office of the Assistant Director, Town

Planning, Pune along with the record pertaining to Gat No.161 and more particularly (layout plan), in respect thereof. However, he submits that such an application was misconstrued to mean that the witness examined from that office is to be recalled again. The petitioner was not requesting the very same witness to be recalled but requesting production of the documents viz., layout plan pertaining to this gat number. In such circumstances, he prays that he may be granted leave to withdraw this petition with liberty to approach the trial court with a fresh application for summoning the said documents from the records of the Assistant Director of Town Planning.

2. Leave granted. Petition dismissed as withdrawn with liberty as above. Trial Court to consider this request strictly in the light of section 139 of the Indian Evidence Act and pass appropriate orders on the said application, if

preferred, without being influenced by the rejection of the earlier application and withdrawal of this petition. All contentions in that behalf are kept open. Petition dismissed as withdrawn with liberty as above.

(S.C.Dharmadhikari, J)